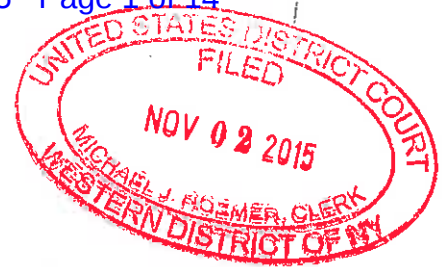


Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**



**FORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)**

**15 CV 6676 -L**

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

**1. CAPTION OF ACTION**

**A. Full Name And Prisoner Number of Plaintiff:** *NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Andre Murphy 13-B-3408

2. \_\_\_\_\_

**-VS-**

**B. Full Name(s) of Defendant(s)** *NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. C.O. Nowicki

4. C.O. Wilson

2. C.O. Rejman

5. \_\_\_\_\_

3. C.O. Reinard

6. \_\_\_\_\_

**2. STATEMENT OF JURISDICTION**

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

**3. PARTIES TO THIS ACTION**

**PLAINTIFF'S INFORMATION** *NOTE: To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Andre Murphy 13-B-3408

Present Place of Confinement & Address: great Meadow Correctional Facility  
Box 51, Comstock, new York 12821

Name and Prisoner Number of Plaintiff: \_\_\_\_\_

Present Place of Confinement & Address: \_\_\_\_\_

**DEFENDANT'S INFORMATION NOTE:** *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: C.O. Nowicki  
(If applicable) Official Position of Defendant: Correctional Officer  
(If applicable) Defendant is Sued in X Individual and/or \_\_\_\_\_ Official Capacity  
Address of Defendant: Attica Correctional Facility, Exchange St.  
Attica, New York 14011

Name of Defendant: C.O. rejman  
(If applicable) Official Position of Defendant: Correctional Officer  
(If applicable) Defendant is Sued in X Individual and/or \_\_\_\_\_ Official Capacity  
Address of Defendant: Attica Correctional Facility, Exchange St.  
Attica, New York 14011

Name of Defendant: C.O. Reinard  
(If applicable) Official Position of Defendant: Correctional Officer  
(If applicable) Defendant is Sued in X Individual and/or \_\_\_\_\_ Official Capacity  
Address of Defendant: Attica Correctional Facility, exchange st.  
Attica, new york 14011

**4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes \_\_\_\_\_ No X

**If Yes, complete the next section.** NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:  
Plaintiff(s): \_\_\_\_\_  
Defendant(s): \_\_\_\_\_
2. Court (if federal court, name the district; if state court, name the county): \_\_\_\_\_
3. Docket or Index Number: \_\_\_\_\_
4. Name of Judge to whom case was assigned: \_\_\_\_\_

**DEFENDANT'S INFORMATION**

Name of Defendant: C.O. Wilson

Official Position of Defendant: Correctional Officer

Address of Defendant: Attica Correctional Facility, Exchange St.  
Attica, New York 14011

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

\_\_\_\_\_ Dismissed (check the box which indicates why it was dismissed):

\_\_\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_\_\_ By court for failure to exhaust administrative remedies;

\_\_\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_\_\_ Judgment upon motion or after trial entered for

\_\_\_\_\_ plaintiff

\_\_\_\_\_ defendant.

**B.** Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes \_\_\_\_\_ No X

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. District Court: \_\_\_\_\_

3. Docket Number: \_\_\_\_\_

4. Name of District or Magistrate Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

## 5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                    |                        |                               |
|--------------------|------------------------|-------------------------------|
| • Religion         | • Access to the Courts | • Search & Seizure            |
| • Free Speech      | • False Arrest         | • Malicious Prosecution       |
| • Due Process      | • Excessive Force      | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect   | • Right to Counsel            |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

## Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

**A. FIRST CLAIM:** On (date of the incident) \_\_\_\_\_,

defendant (give the name and position held of each defendant involved in this incident) \_\_\_\_\_

C.O. nowicki, C.O. rejman, C.O. ~~Reinard~~ and C.O Wilson

did the following to me (briefly state what each defendant named above did): on the morning of February 25, 2015, i was being letfor the morning call-outs to attend my work program (hospial porter). On the way out of 27/28 stairway I was told to ~~step off~~ to the side by C.O. Nowicki and instructed to go back into the stairway.i was standing in the stairway longer than i expected, I than assumed he wanted me to go back to my cell. before i could i reach my cell i was instructed to come back to the bottom of the stairway where officer, see attched paper

The constitutional basis for this claim under 42 U.S.C. § 1983 is: is the Eighth Amendment, failure to protect and cruel & Unusual Punishment.

The relief I am seeking for this claim is (briefly state the relief sought): Compensatory Damages, in the amount of \$1,000,000 for each defendantfor a total of \$4,000,000.

**Exhaustion of Your Administrative Remedies for this Claim:**

Did you grieve or appeal this claim? X Yes \_\_\_\_\_ No If yes, what was the result? \_\_\_\_\_  
grievance was denied without merit.

Did you appeal that decision? X Yes \_\_\_\_\_ No If yes, what was the result? \_\_\_\_\_  
CORG also denied Plaintiff grievance without merit.

*Attach copies of any documents that indicate that you have exhausted this claim.*

If you did not exhaust your administrative remedies, state why you did not do so: \_\_\_\_\_

**A. SECOND CLAIM:** On (date of the incident) \_\_\_\_\_,

defendant (give the name and position held of each defendant involved in this incident) \_\_\_\_\_

did the following to me (briefly state what each defendant named above did): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The constitutional basis for this claim under 42 U.S.C. § 1983 is: \_\_\_\_\_

The relief I am seeking for this claim is (briefly state the relief sought): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Exhaustion of Your Administrative Remedies for this Claim:**

Did you grieve or appeal this claim? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, what was the result? \_\_\_\_\_

Did you appeal that decision? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, what was the result? \_\_\_\_\_

*Attach copies of any documents that indicate that you have exhausted this claim.*  
If you did not exhaust your administrative remedies, state why you did not do so: \_\_\_\_\_

\_\_\_\_\_

**If you have additional claims, use the above format and set them out on additional sheets of paper.**

\_\_\_\_\_  
\_\_\_\_\_

**6. RELIEF SOUGHT**

*Summarize the relief requested by you in each statement of claim above.*

Compensatory damages in the amount of ~~\$~~ 1,000.000 for each defendant  
for a total of ~~\$~~ 4,000.000.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


Do you want a jury trial? Yes X No \_\_\_\_\_

### **First Complaint**

Nowicki and many others were waiting in the C-Block corridor. When I reached the bottom of the stairs officer Nowicki approached me and I put my hands up indicating that I did not want any problems. Officer Nowicki then struck me on the left side of my face with his right fist. As officer Nowicki was attacking me, officers Rejman, Reinard, and Wilson joined into the attack, hitting me with closed fists and eventually I was pushed out of the stairway into the corridor. As I entered the corridor I was immediately hit with batons by officers Rejman, Reinard, and Wilson numerous times. As I was being attacked I felt blood running down my face that's when I dropped to the ground to cover myself up. Once I was subdued I was taken to the Facility hospital on the 1<sup>st</sup> floor where I was treated for my injuries. The injuries I was treated for were lacerations to the top of my skull as well as the top left side of my skull. The injuries I suffered at the hands of the officers required thirteen (13) staples to my skull. I was then escorted to SHU.



FORM 2133 (REV. 6/08)

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  INMATE GRIEVANCE PROGRAM	Grievance No. <b>A-64378-15</b>	Date Filed <b>2/27/14</b>
	Facility <b>Attica Correctional Facility</b>	Policy Designation <b>Institutional</b>
	Title of Grievance <b>ASSAULTED BY OFFICERS</b>	Class Code <b>49</b>
	Superintendent's Signature <i>B. K. [Signature]</i> FDS	Date <b>3/13/15</b>
Grievant <b>Murphy, A.</b>	DIN <b>13-B-3408</b>	Housing Unit <b>RB-CE-08</b>

Grievance is denied based upon information provided.

This grievance has been investigated by a Sergeant and includes an interview with the grievant, along with written memorandum from staff named.

The grievance states: ASSAULTED BY OFFICERS.

A Sergeant interviewed the grievant and he offered no witnesses or evidence to substantiate his claims.

Staff is on record denying all allegations. U.I. & U.O.F. included.

The investigating Sergeant could find no evidence to support the grievants' accusations. Force used was appropriate.

Based on the information provided, there is no evidence to substantiate the allegations of staff malfeasance made by the grievant. Therefore, the grievance is without merit and denied.

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#### APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. \* Please state why you are appealing this decision to C.O.R.C.

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Grievant's Signature

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Date

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Grievance Clerk's Signature

---

Date

A MURPHY 13B3908

26 JUN 2015

 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p>ANDREW M. CUOMO Governor</p> <p>ANTHONY J. ANNUCCI Acting Commissioner</p>	<p>Grievance Number <b>A-64378-15</b></p>	<p>Desig./Code <b>I/49</b></p>	<p>Date Filed <b>2/27/15</b></p>
	<p>Associated Cases</p>		<p>Hearing Date <b>5/13/15</b></p>
<p><b>INMATE GRIEVANCE PROGRAM</b> <b>CENTRAL OFFICE REVIEW COMMITTEE</b></p>	<p>Facility <b>Attica Correctional Facility</b></p> <p>Title of Grievance <b>Assaulted By Officers</b></p>		

**GRIEVANT'S REQUEST UNANIMOUSLY DENIED AS WITHOUT MERIT**

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied as without merit. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the grievant was involved in an appropriately documented Use of Force and Unusual Incident on 2/25/15 when he assaulted staff, and that he received prompt medical for lacerations to his head and superficial redness to his back. Further, Officers N..., Rei..., Rej... and W... deny assaulting the grievant. CORC also notes that the grievant's assault allegations are currently being investigated by the Office of Special Investigations (OSI), and advises him to address further concerns regarding this matter directly to OSI.

CORC notes that a disciplinary hearing may be appealed in accordance with 7 NYCRR, Chapter V, and that this appeal mechanism affords the opportunity to remedy any factual or procedural errors in a disciplinary report. The grievant's disposition is currently pending review at the Office of SHU/Inmate Discipline.

In regard to the grievant's appeal, CORC has not been presented with sufficient evidence of malfeasance by staff, and notes that he has since been transferred.

JNA/amb

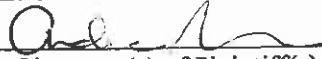
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/28/15  
(date)

**NOTE:** *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

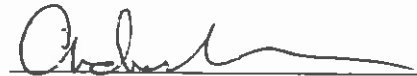
\_\_\_\_\_  
\_\_\_\_\_  
  
Signature(s) of Plaintiff(s)

## VERIFICATION

STATE OF NEW YORK                    )  
COUNTY OF WASHINGTON    ) ss.:

Andre Murphy, being duly sworn, deposes and says that deponent is the petitioner in the above captioned proceeding, that he has read the foregoing petition and knows the contents thereof, that the same is true to deponent's own knowledge, except as to matters therein stated upon information and belief, which matters deponent believes to be true.

Respectfully submitted



I.D. # 1383408

Great Meadow Correctional Facility  
P.O. Box 51  
Comstock, New York 12821

Sworn to before me on this

28<sup>th</sup> day of Oct, 20 15



Notary Public

**PAT J SULLIVAN**  
Notary Public, State of New York  
No. 01SU6316844  
Qualified in Saratoga County  
Commission Expires Dec. 22, 2018

Andre Murphy # 13-B-3408  
Great Meadow Correctional Facility  
Box 51  
Comstock, New York 12821

October 28, 2015

**US DISTRICT COURT**  
Western District Of New York  
U.S. Courthouse, 2 Niagara Sq.  
Buffalo, New York 14202



Attention: CLERK OF THE COURT,

Enclosed please find a 42 U.S.C. § 1983, petition, please forward to a Judge for consideration.

Your attention in this matter is greatly appreciated.

Respectfully Submitted,

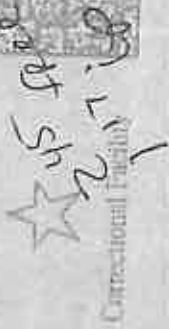
A handwritten signature in black ink, appearing to read "Andre Murphy", with a long horizontal flourish extending to the right.

Andre Murphy # 13-B-3408  
Great Meadow Correctional Facility  
Box 51  
Comstock, New York 12821

CV rights

US DISTRICT COURT  
Western District Of New York  
U.S. Courthouse, 2 Niagara Sq.  
Buffalo, New York 14202

Great Meadow



Correctional Facility

*[Handwritten signature]*

*[Handwritten initials "JM"]*

Correctional Facility



LEGAL MAIL

